

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

STERLING D. BROWN,

Plaintiff,

-vs-

CASE NO.: 18-CV-922

CITY OF MILWAUKEE, CITY OF
MILWAUKEE CHIEF OF POLICE
ALFONSO MORALES, in his
Official capacity, SERGEANT
SEAN A. MAHNKE, SERGEANT
JEFFREY S. KRUEGER, OFFICER
JOSEPH J. GRAMS, OFFICER
BOJAN SAMARDZIC, OFFICER
JAMES P. COLLINS, OFFICER
CRISTOBAL MARTINEZ AVILA,
OFFICER ERIK A. ANDRADE and
OFFICER JASON P. JENSEN,

Defendants.

Video Examination of SEAN A. MAHNKE,
taken at the instance of the Plaintiff, under and
pursuant to the provisions of the Federal Rules of
Civil Procedure, pursuant to Notice of Deposition,
before SHERYL L. STAWSKI, a Registered Professional
Reporter and Notary Public, in and for the State of
Wisconsin, taken at the Office of the City
Attorney, 841 North Broadway, 7th Floor, Milwaukee,
Wisconsin, on the 3rd day of June, 2019, commencing
at 9:14 a.m. and concluding at 11:39 a.m.

1 A P P E A R A N C E S
23 GINGRAS, CATES & WACHS, S.C., by
4 MR. MARK L. THOMSEN and MR. SCOTT B. THOMPSON
5 219 North Milwaukee Street
6 Milwaukee, Wisconsin, 53202
7 Appeared on behalf of the Plaintiff.8 CITY OF MILWAUKEE,
9 OFFICE OF THE CITY ATTORNEY, by
10 MS. NAOMI E. GEHLING
11 841 North Broadway, 7th Floor
12 Milwaukee, Wisconsin, 53202
13 Appeared on behalf of the Defendants.14 ALSO PRESENT: Ms. Stephanie M. Olson, Videographer,
15 Brown & Jones Reporting.16 EXAMINATION BY: PAGE
17 MR. THOMSEN 4

18 I N D E X

19 Exhibits: MARKED ID
20 Exhibit 117 - Oath of Office 5 5
21 Exhibit 118 - Confidential MPD Incident Report,
22 Use of Force 7 7
23 Exhibit 119 - Officer Transcript (520 Hour).... 20 20
24 Exhibit 120 - MPD Training Record 21 22
25 Exhibit 121 - Interview of Sergeant Sean
Mahnke Transcript 47 47

26 Requests by Mr. Thomsen:

27 Training Worksheets and Training Folders 25

1 TRANSCRIPT OF PROCEEDINGS

2 THE VIDEOGRAPHER: We are officially on
3 the record at 9:14 a.m. Today's date is June 3,
4 2019. This is disk number one in the deposition of
5 Sean Mahnke. This deposition is being taken in the
6 matter of Brown versus the City of Milwaukee.

7 This matter is pending in the United
8 States District Court, in the Eastern District of
9 Wisconsin, and Case Number 2:18-CV-922.

10 This deposition is taking place at the
11 office of the City Attorney located at 841 North
12 Broadway, Milwaukee, Wisconsin, 53202.

13 My name is Stephanie Olson,
14 videographer. The court reporter is Sheryl
15 Stawski.

16 Will counsel please state their
17 appearances and whom they represent beginning with
18 plaintiff's counsel, and then the reporter will
19 swear in the witness.

20 MR. THOMSEN: Mark Thomsen and Scott
21 Thompson appearing on behalf of Mr. Brown

22 MS. GEHLING: Naomi Gehling on behalf
23 of all defendants.

24 SEAN MAHNKE, called as a witness
25 herein, having been first duly sworn on oath, was

1 argumentative.

2 THE WITNESS: When that -- when that
3 incident occurred, I was under the impression as
4 long as I did not use the force, that I could
5 handle that investigation.

6 Later, I was -- and at that time I
7 was -- misunderstood of -- our standard operating
8 procedures; and I was told that if there was a use
9 of force and even if you, you know, have one finger
10 on the person, that you need to then call for
11 somebody of higher rank to file that report.

12 So at the time of the Sterling Brown
13 incident, I was -- misunderstood the standard
14 operating procedure.

15 BY MR. THOMSEN:

16 Q What is the standard operating procedure that we're
17 talking about?

18 A On uses of force and the filing -- the
19 investigation of the uses of force.

20 Q And tell me, how is it possible that you received a
21 training on the standard operating procedure but
22 are here now claiming you misunderstood that
23 procedure?

24 MS. GEHLING: Objection; argumentative.

25 THE WITNESS: Because I did not conduct

1 all responding to one scene, and the supervisor in
2 charge of that scene will be managing officers from
3 both shifts.

4 BY MR. THOMSEN:

5 Q So then why didn't you just leave if you saw that
6 Sergeant Krueger had the scene?

7 MS. GEHLING: Objection; argumentative,
8 calls for speculation.

9 THE WITNESS: That's when I was waiting
10 for Sergeant Krueger; to get some information from
11 Sergeant Krueger about what had taken place; so it
12 was still in the information gathering phase.

13 BY MR. THOMSEN:

14 Q Well, officer Grams walked over to you, right?

15 MS. GEHLING: Objection; foundation.

16 THE WITNESS: At one point, yes, he
17 did.

18 BY MR. THOMSEN:

19 Q So you walked away from Mr. Brown, correct?

20 A Yes.

21 Q What did he tell you?

22 A I don't remember exactly his verbatim -- what he
23 said to me; but he said something to the effect of,
24 I just wanted one more car here. I just want to
25 write this guy a parking ticket.

1 Q He already told you why.

2 A No, he didn't.

3 Q He told you he only wanted one car, right?

4 MS. GEHLING: Objection; argumentative.

5 BY MR. THOMSEN:

6 Q Right?

7 A Yes, once people were on scene.

8 Q So you're sitting in your car, the officer that
9 made the call came walking over to you and told you
10 there's only -- he only needed one car, and he was
11 going to give him a parking ticket. Yes?

12 MS. GEHLING: Objection; argumentative,
13 mischaracterizes testimony.

14 THE WITNESS: Yes.

15 BY MR. THOMSEN:

16 Q Did he say that he thought there were dead bodies
17 in the store?

18 MS. GEHLING: Objection; argumentative.

19 THE WITNESS: No.

20 BY MR. THOMSEN:

21 Q Did he say that he thought there was a robbery?

22 MS. GEHLING: Objection; argumentative
23 and foundation.

24 THE WITNESS: No.

25 BY MR. THOMSEN:

1 Q Did he say that at any point in time he had ever
2 feared for his safety?

3 MS. GEHLING: Objection; argumentative,
4 foundation, calls for speculation.

5 THE WITNESS: No.

6 MS. GEHLING: Sorry.

7 BY MR. THOMSEN:

8 Q So knowing that he wasn't afraid, knowing that this
9 was just a parking ticket, you would agree that
10 there was no reasonable basis that this individual
11 was involved in a crime, correct?

12 MS. GEHLING: Objection; argumentative,
13 foundation, mischaracterizes testimony and also
14 calls for speculation.

15 THE WITNESS: Could you repeat the
16 question to me, please.

17 (The above question was read.)

18 THE WITNESS: No.

19 BY MR. THOMSEN:

20 Q So you're sitting in your car, and officer Grams
21 tells you he needed one car not the whole crew, and
22 that he was going to just give him a parking
23 ticket.

24 You tell me, what was it about this
25 individual that made you believe that there was a

1 A No, sir, I received a 15-day suspension.

2 Q You received a 15-day suspension for your failure
3 to protect Mr. Brown, correct?

4 MS. GEHLING: Objection; argumentative
5 and also foundation.

6 THE WITNESS: I received a 15-day
7 suspension for failing to be a leader and managing
8 a scene.

9 BY MR. THOMSEN:

10 Q And your failure to manage the scene included that
11 you and your fellow officers should have driven
12 away and allowed Officer Grams to give Mr. Brown a
13 parking ticket, correct?

14 MS. GEHLING: Objection; argumentative
15 and foundation.

16 THE WITNESS: Can you repeat that,
17 please.

18 (The above question was read.)

19 THE WITNESS: During the retraining, we
20 talked about many different things that we could
21 have done differently to -- that would have
22 provided a better outcome.

23 BY MR. THOMSEN:

24 Q I need an answer to that question, sir.

25 A I provided an answer.

1 clarification.)

2 THE WITNESS: -- .35, Use of Force
3 Report, sub a, which is purpose, the use of force
4 report is designed to document those incidents
5 involving the use of force by department members as
6 described herein. The report shall be completed by
7 a supervisory officer of a higher rank than the
8 member that used force except for supervisors
9 assigned to the Internal Affairs Division, dash,
10 risk management who can investigate and complete a
11 use of force report for any department member.

12 BY MR. THOMSEN:

13 Q who had provided you with the training as to the
14 meaning of the SOP and the meaning of 460.35(a)
15 purpose?

16 MS. GEHLING: Object to vague.

17 THE WITNESS: Can you repeat the
18 question.

19 (The above question was read.)

20 THE WITNESS: The Milwaukee Police
21 Department Police Academy.

22 BY MR. THOMSEN:

23 Q Now, you ordered "taser, taser, taser," correct?

24 MS. GEHLING: Objection; foundation.

25 THE WITNESS: Yes.

1 Q And Sergeant Krueger specifically asked you --
2 strike that. Let's go back.

3 You were in the squad with
4 Sergeant Krueger, correct, after the incident?

5 A Yes.

6 Q Whose squad were you in?

7 A I'm not 100 percent sure; so I don't want to answer
8 that. I don't recall.

9 Q And Officer Collins was also there?

10 A Officer Collins was standing outside the squad that
11 me and Sergeant Krueger were in.

12 Q Did he get into the squad, too, for a period of
13 time?

14 A At one point, yes, during my use of force
15 investigation when I was getting everybody's
16 statements.

17 Q And at that point in time, you believed that there
18 were no body cameras running, correct?

19 MS. GEHLING: Objection; argumentative,
20 relevance.

21 THE WITNESS: At that time, I was
22 unaware of any body cameras operating.

23 BY MR. THOMSEN:

24 Q As a sergeant you didn't have one, correct?

25 A Correct.

1 Q And -- so you were in the squad with
2 Sergeant Krueger and Officer Collins; so who said
3 we're trying to protect ourselves?

4 MS. GEHLING: Objection; foundation,
5 argumentative.

6 THE WITNESS: I made a similar
7 comment -- I don't remember verbatim what it was --
8 but protect ourselves was part of that comment.

9 BY MR. THOMSEN:

10 Q And in that discussion you were aware that another
11 officer should be doing the use of force
12 investigation, correct?

13 MS. GEHLING: Objection; argumentative
14 and mischaracterizes his prior testimony.

15 THE WITNESS: No, that's incorrect.

16 BY MR. THOMSEN:

17 Q Certainly, one way you could protect yourself is if
18 you conducted the use of force report, right?

19 MS. GEHLING: Objection; argumentative.

20 THE WITNESS: No, sir.

21 BY MR. THOMSEN:

22 Q Exhibit 30 back. I'm going to show you what's been
23 marked -- strike that. You have Exhibit 61 in
24 front of you, correct?

25 A Yes, sir.